

CLOSING THE GAP: IDENTIFYING AND DEFINING CHALLENGES
FACED BY ALTERNATIVE DISPUTE RESOLUTION
PROFESSIONALS AS THEY ENTER THE FIELD

by

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THESIS ABSTRACT

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The definitive flexibility, informality, and diversity of use make alternative dispute resolution (ADR), the practice of methods alternative to the formal legal system for resolving conflicts, a unique field that deserves the time and effort it will take to determine best practice for establishing it as a true profession. That being said, before we begin the battle for legitimization we must not forget the heart and soul of the field: its practitioners. In the face of the unsure status of ADR as a field, there are many barriers currently affecting potential practitioners of ADR preventing the success of both these new members and the field itself.

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TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION	1
II. METHODOLOGY	4
III. LITERATURE REVIEW.....	7
Introduction to ADR and Its Practitioners	7
Sociology of the Profession	11
Challenges to Entering the Field	13
Insufficient Knowledge of and Demand for ADR Services	14
Over-Supply of Professionals	17
Unbalanced Representation among Practitioners.....	18
IV. DISCUSSION	20
The Four Primary Challenges.....	20
Lack of Awareness	20
Unclear Entry Paths.....	21
Influence from Other Professions	22
Financial Limitations	24
Is Standardization the Answer?.....	26
V. RECOMMENDATIONS.....	28
Possible Topics for Further Research	28
Identifying the Professionals and Their Experiences	28
Professionalization and How to Achieve It.....	30

Chapter	Page
Recommendations for ADR Institutions.....	32
For University Programs and ADR Affiliated Organizations	32
VI. CONCLUSION	37
REFERENCES CITED	38

CHAPTER I

INTRODUCTION

The field of Alternative Dispute Resolution (ADR) has been growing steadily over the past few decades with opportunities for pursuing education or training in ADR blooming all across the country. However despite the increasing opportunities within the field, there still seems to be a number of unaddressed challenges which prevent skilled professionals from entering or succeeding in the field. Throughout my own interactions with colleagues and interviews with successful ADR professionals, the stories of how each person came to the field shared two features: each of their stories were unique, and yet shared a single theme of discovering their own paths.

Between each of their accounts of emergence into the field there was always an absence of any one particular formula or singular template or any formal template or shared starting place between these practitioners from varied backgrounds and of vastly different experiences. Some of their stories began with stumbling upon a mediation training advertisement; others had been thrust into positions which required them to seek out alternative means for dealing with conflict. Regardless of how these practitioners came to the field, all of

their stories reflected the same draw to the principles of ADR that lead them to successful careers.

Potentially the most prominent feature of the ADR field is the ability to be adapted to any number of conflict riddled situations and the emphasis placed on providing an extensive network of specialists to facilitate ADR processes for any setting. It is because of this unique ability that ADR has gained momentum and attracted professionals from all over to seek out or stumble into ADR work. However, maintaining such a large body of professionals with such diverse experiences is exactly what presents challenges to each new generation of ADR practitioners. In order to identify these challenges there must first be an examination of the discipline itself and the options available for potential students of ADR.

The culmination of these experiences has led me to identify three primary consequences stemming from the lack of public awareness of the ADR field: 1.) the lack of consensus on accreditation has led to a variety of entry paths, both recognized and obscure; 2.) professionals in and outside of the ADR field lack understanding regarding the skills ADR practitioners can bring to their organization; which results in 3.) a limited market for freshly trained professionals entering the field. My intent is to address these issues from an administrative perspective to provide insight for educational institutions into methods which will both bolster public awareness in their respective communities and promote

graduates in the professional arena. In order to realize these goals I will refer to my work previously done with the Association for Conflict Resolution illustrating barriers along with other published works in an effort to provide an amalgamation of information on this topic.

With the completion of this work it is anticipated that the conversations regarding accreditation, promotion, and expansion of the ADR field and its practitioners will continue to be advanced. It is my hope that these conversations will overflow into the public sphere in both the macro and micro settings resulting in ADR elements being sought after in areas which have not yet been considered compatible with ADR methods. As these issues are revisited and our institutions evolve, the success of ADR as a professional field will continue to flourish and improve human relations beyond its traditional niches and ensure a growing market for today's emerging practitioners.

CHAPTER II

METHODOLOGY

In order to achieve the goals set forth by this work, I chose to conduct this research solely through the collection and compilation of secondary sources in an extended literature review. For the most part this work was inspired by previous research I conducted for the Association for Conflict Resolution into barriers faced by racially and ethnically diverse practitioners. After delving into the issue of barriers for diverse practitioners I wanted to explore the broader horizon for professionals entering the field and where many of the challenges were originating. In order to do so I needed to expand the scope of research for additional materials that could provide different perspectives that may not have appeared in my previous work. Therefore much of the data gathered for this work was primarily collected through library databases and online search engines to seek out both academic sources as well as practical observations made by current professionals working in ADR but outside academia.

In addition to increasing the number of perspectives I also chose to use these methods for data collection to give a greater sense of the highly subjective nature of the barriers new practitioners face. Therefore, collecting perspectives from across the field through the examination of

both published literature as well as personal experiences documented in online essays can provide a broader range of narratives. With these additional narratives challenges will be identified more definitively and can give some insight into how these challenges affect different practitioners. Using subjective perspectives on these barriers may not encompass the full spectrum of challenges faced by practitioners and not all new practitioners will face all of the barriers addressed here. However this report can still contribute to the foundational understanding of challenges generally encountered by new practitioners and should be considered as another step towards cataloguing improvements that can be made within the field.

In addition to the reasons cited above, I chose to use only secondary sources for this work in an effort to combat one of the challenges to be addressed later in this work, that is, the general lack of information sharing and common resources for accessing information about the field of ADR. Conducting research for this work proved to be somewhat difficult as finding readily available information related to the topic was scarce and difficult to find. I believe this challenge was due in part to the relative newness of the discipline and more importantly its study within formal academic circles. In addition, the flexible definition of ADR as an umbrella term for means of resolving disputes outside of legal grievances (“Dispute Resolution Processes”, n.d.) allows it to embrace a number of titles including appropriate dispute resolution and

conflict resolution, aside from the numerous names of specific occupations held by ADR specialists.

While these methods for data collection will provide a broader picture and contribute to centralizing previously published articles related to this topic, they also present some challenges. Information regarding barriers new practitioners face is still limited and those works that have been published can be difficult to uncover. This is especially true in cases where published works have limited access through member associations that require a paid membership to access. Even when materials are available the constant development of the field means that some of the barriers addressed here may become obsolete as new structures are put in place and introduce new challenges in the near future.

CHAPTER III

LITERATURE REVIEW

Introduction to ADR and Its Practitioners

In 1976 Frank Sander presented on “The Causes of Popular Dissatisfaction with the Administration of Justice” at the Pound Conference on the Causes of Popular Dissatisfaction with the Administration of Justice (Moffitt, 2006, p. 437). At the conference he recognized the limitations of the traditional litigation system and suggested that some disputes would be better suited to other mechanisms for resolution, such as mediation or arbitration, in what Moffitt identifies as the “big bang” moment for the field of ADR (Moffitt, 2006, p. 437). From here the field of ADR continued to grow within the legal community and academia nestled within law schools as a particular subset of legal training (Moffitt, 2006). Around the same time, ADR theory and more specifically practices such as mediation were also gaining ground in fields outside the legal sphere including community relations, labor negotiations, social movement, and international peacemaking (Rhudy, 2014, p. 2; Kriesberg, 2007, p. 31). The rise of ADR through these different channels is best illustrated by Baruch Bush and Folger (1994) in their description of the “Four Diverging Views” of the

mediation movement which identifies for different perspectives on mediation.

In their book, Baruch Bush and Folger (1994) identify four narratives which represent different approaches to the field of mediation and what the movement has accomplished so far. These narratives include the Satisfaction Story, the Social Justice Story, the Transformation Story, and the Oppressive Story (Baruch Bush & Folger, 1994). While each of these narratives provides a wider scope of the evolution of the ADR field, Baruch Bush & Folger (1994) acknowledge that the Social Justice Story and the Transformation Story had, at the time of publication of their book, only occurred as “‘minor’ stories of the movement” (p. 18) as acknowledged by specific pockets of practitioners (1994). Both of these narratives provide important perspectives regarding the growth of mediation as they refer to the specific niches of mediation. Precisely that the Social Justice Story stems from those professionals with backgrounds in grass roots community organizing (Baruch Bush & Folger, 1994, p. 19) and the Transformation Story as the belief in mediation’s distinctive capability to “transform the character of both individual disputants and society as a whole” (Baruch Bush & Folger, 1994, p. 20). Needless to say, these narratives are significant points in the evolutionary log of ADR’s growth, but for the purposes of this paper they will only be identified here to recognize the many ways in which ADR can be used and how the different perspectives can inform

the priorities of the field at large. Instead, this passage will focus on the two other narratives addressed by Baruch Bush and Folger (1994): the Satisfaction Story and the Oppression Story.

The authors begin with what they call the Satisfaction Story, a widely shared narrative amongst practitioners and academics which recognizes the ability of ADR methods to satisfy the needs of parties in conflict through flexible and informal structures (Baruch Bush & Folger, 1994). Within this narrative mediation allows for participants to cover a wider selection of topics to address more completely their needs for resolution leading to more creative problem solving and lasting solutions built by the participants as opposed to the more structured ruling that may result from utilizing the traditional legal system (Baruch Bush & Folger, 1994, p. 16). In addition the informal and mutual nature of mediation provides what the authors identify as “private” and “public” savings both psychologically, in terms of time and stress associated with court proceedings, and economically by providing a less expensive option for disputants and lightening the case load for the court system and increasing access to the courts for those cases which need them (Baruch Bush & Folger, 1994, p. 17). In sum, the Satisfaction Story recognizes the field of mediation as a mutually beneficial alternative which provides positive outcomes for not only the parties involved, but for the court system and general public as well. However, this image of a triumphant solution to the overcrowding of the courts and combative nature of the

adversarial setting of the legal system is only one vision of mediations accomplishments.

However, although the Satisfaction Story is generally the most widely acknowledged narrative it is also vital to recognize the opposing narrative to fully understand the perception of ADR in the public sphere. The Oppression Story as outlined by Baruch Bush and Folger (1994) warns against the dangers of using mediation due in large part to its informality and lack of procedural and substantive rules (p. 22). Initially the Oppression Story raises concerns regarding the power imbalances which can occur between disputing parties and the inability of the neutral party to prevent coercion and manipulation from occurring causing weaker parties to be taken advantage of without recourse (Baruch Bush & Folger, 1994, p. 22). The narrative goes on to address additional concerns regarding the bias of the neutral affecting all aspects of the process from selection and framing of issues, consideration of settlement options, and other aspects which can affect the outcome (Baruch Bush & Folger, 1994, p. 23). Finally, this narrative also argues that since mediation is used in private and without reference to public interest, it allows stronger parties to overwhelm it's adversaries and prevents weaker parties from forming a common cause thus undermining public interest and potential growth for social justice issues across all areas in which mediation may be used (Baruch Bush & Folger, 1994, p. 23). The concerns of the Oppression Story are no small matter

and have the potential to create devastating consequences for disputants who choose to use ADR methods, the public interest as outlined above, and for development of ADR as a field.

The Satisfaction Story and the Oppression Story as presented by Baruch Bush and Folger (1994) represent the fundamental struggle of the ADR field as it has grown and progressed into its current state. Both the benefits and concerns of its informal and unconventional nature are what drive the professionals of the ADR community to continue to define its role and position within society without sacrificing those attributes which make it so unique and adaptable. Somewhere between a skill set embedded within various professions and an emerging profession itself still developing those structures needed for legitimacy, the ADR field has yet to fully meet the criteria as sociologically defined to be officially labeled as a profession. It is this requirement which I believe many of the barriers to be addressed by this work stem and so those sociologically prescribed attributes must also be examined.

Sociology of the Profession

Due to the varied perspectives surrounding the growth of the ADR field and the still ambivalent nature of its practice, a debate exists among ADR experts as to whether ADR can be qualified as a profession or if it can only be used as a skill set (Rhudy, 2014, p. 2). While I will give my

own thoughts on this topic a bit later in the discussion chapter, those means for legitimizing a profession must first be identified and defined. This chapter will inspect the elements required for the legitimization of a profession and briefly reflect on the effects of those elements. Upon recognizing the key components required for professionalization, applying these concepts to the field of ADR can not only reveal important insight into the challenges ADR practitioners face, but may also provide clues as to where those challenges originate. Therefore, in an attempt to understand the sociology of this particular profession I turn to Abbott's analysis of professionalism and the features required to fully legitimize a profession.

Abbott (1988) begins by acknowledging that professions and their progressions had previously been analyzed according to organizational pattern and, in turn, a common process of development but argues that this analysis was incomplete (p. 1-2). Initially professions became defined in simple steps as having systems of instruction, entry by examination and other formal prerequisites, and had a formal code of ethics or behavior (Abbott, 1988, p. 4). However, Abbott (1988) provides a definition for professions as "exclusive occupational groups applying somewhat abstract knowledge to particular cases" (p. 8) and asserts the true criteria of a profession is jurisdiction and interprofessional competition, or more simply put: the control of knowledge and its application (p. 2).

Within this theory jurisdiction is defined by the author as the link between a profession and its work and in order to develop his catalogue of professional development Abbott (1988) relies upon how these links are created and sustained by social structure (p. 20). More specifically, competition for control is what the author asserts produces an interdependent system which relies on different jurisdictions granting varying levels of authority to each profession (Abbott, 1988, p. 2). The struggles over these jurisdictional divides are, in Abbott's (1988) analysis, what determine the success or failure of any given profession over time (p.2).

Challenges to Entering the Field

Previously, studies have been conducted and articles published which examine the practice of ADR, the benefits professionals can reap from utilizing ADR, and even the challenges to entering the field. However these studies have most typically focused on how to begin practicing ADR for practitioners from other professions or how to build ADR into an already existing practice. Many of the previous works done have bypassed the process of entering the field of ADR from a place of little to no experience in the professional realm and do not address the challenges faced for new professionals seeking to practice ADR exclusively. Furthermore, studies which do focus on barriers to entering

the field have usually been focused on specific populations of ADR professionals and overlooked challenges which nearly all new potential practitioners face when entering the field. This paper aims to shed light on these issues by first recognizing some of the tricky facets of the ADR field which may cause difficulties for new practitioners and then specifically identifies four main barriers to becoming an ADR professional. In order to begin this examination we must first recognize the shortcomings of the field itself to understand the environment in which the challenges are being generated and how these challenges need to be addressed.

Insufficient Knowledge of and Demand for ADR Services

When considering the challenges presented by the unique structure of the ADR field, the most prominent feature that comes to mind is the insufficient demand for ADR services. In a way, this feature was one of the first challenges recognized when beginning the research for this work specifically due to the overall lack of information exchange within and surrounding the field. In doing this work it was difficult to find articles pertaining exclusively to ADR, let alone pieces which highlighted barriers to entering the field. In fact, both the Volpe, et al. (2008) and Rhudy (2014) studies recognized difficulties in acquiring the information for their research in what Volpe, et al. (2008) identifies as

challenges “inherent in ADR research” (p. 126). Volpe, et al. (2008) recognizes the many gaps in the accessibility of information within the ADR field by identifying it from three different perspectives. These include the lack of an academic home, no universally acknowledged knowledge base, and no readily accessible ADR database (Volpe, et al., 2008, p. 127-128). It would seem this is in part due to the fact that ADR as a profession is still relatively new, or as Reynolds (2013) puts it “new and improved” as a distinctive process recently recognized apart from legal processes (p. 399- 400). Yet while the field becomes more established with each new development, there remains a distinctly underwhelming amount of public awareness and demand for ADR services.

This lack of exposure becomes especially apparent when considering how ADR and its professionals have taken to promoting their services. Reynolds (2013) recognizes the struggle to promote the old but new features of ADR through the ongoing processes of branding ADR services as alternative, flexible, and more efficient than the dominant structure for dispute resolution, the American legal system (p. 400). The author states that as ADR began to emerge in its own right and even as practitioners advertise their services today the emphasis is on the ability to go beyond the legal framework to provide a more empowered service that would cater to a wider range of disputants needs (Reynolds, 2013, p. 401) in an effort to secure jurisdiction and entice potential clients.

Even as new professionals work to promote themselves and their practice, creating demand for ADR services is no small feat. In instances where experienced professionals have attempted to incorporate demand for ADR within their contracts and through services, their efforts did not reap the rewards they sought. Susskind (2011) has written about his experiences in attempting to mandate ADR services in government practices through the inclusion of mediator rosters and installing mediation positions within public offices, yet found these roles did not necessarily increase demand for ADR although it did provide some legitimacy for the practice. Nor did the attempt to introduce ADR themes to up and coming professionals from related fields such as public policy in the hopes the future professionals would create and “informed demand” for ADR services but have not yet seen that come to fruition (Susskind, 2011). These findings are discouraging considering the great strides ADR has made in the last decades in establishing its own jurisdiction and further demonstrate the continued lack of awareness and access the public has to ADR practices.

Finally, in a related note to the issue of accessibility, it is important to acknowledge the barriers surrounding geographic region as well. Physical location can be both a blessing and a curse in any region of the United States when working as an ADR specialist when considering both the difficulty in working in ADR in those parts of the United States which have not yet fully adopted its methods and when practicing in a

specific focus of ADR which requires proximity such as environmental or demographical conflicts. In fact, Johnson and Volpe (2013) found many of the practitioners interviewed had in fact moved to a different region in order to practice in conflict resolution. With the affect these issues have on new practitioners, the added difficulty of competing for these limited positions is only intensified by the over-supply of professionals.

Over-supply of Professionals

Although this paper asserts that there are challenges which can prevent potential practitioners from entering the field of ADR, there are also challenges for new professionals who have completed their training and have entered the field but face barriers to becoming a successful practitioner. One of the challenges that these ADR specialists face is the over-supply of professionals offering ADR related services and the struggle to stand out to potential clients or employers.

One example of this challenging feature is what Johnson and La Rue (2009) identify as the issue of gatekeepers. The authors found in their research that attorneys were typically responsible for selecting an ADR specialist and as such were unlikely to select an unknown practitioner to avoid risking the interests of their clients (Johnson & La Rue, 2009, p. 15). Now, although the authors were focusing on how gatekeeping affects racially and ethnically diverse practitioners, the fact

remains that potential employers of ADR specialists are more likely to select professionals they know or who come highly recommended by a trusted colleague. With that being the case and without a formalized system for licensure or certification, there are plenty of ADR practitioners or professionals from other fields with knowledge of ADR practices lined up as potential candidates for clients seeking ADR services.

Unbalanced Representation among Practitioners

Another barrier which has a significant impact on incoming ADR professionals and the state of diversity and equity in this field is being in the difficult position of being one of only a small percentage of practitioners which represent diversity. This barrier is more challenging to define and address because each experience with it is typically very subjective and rooted in personal perspectives. One observation of how a lack of diverse professionals affects the ADR field is identified by Johnson and Volpe (2013) as the likeability factor. This factor suggests when we chose facilitators, either for a position in a firm or for a contracted position within a negotiation, we tend to choose people who are familiar, who we can relate to, and who are, generally speaking, like ourselves. This likeability factor has also been addressed as unconscious bias with studies indicating our brains automatically sort people into categories

and identifies those people similar to us as stronger candidates (Schulte, 2013).

In addition to client comfort level, practitioners from underrepresented minority groups can feel additional pressure when entering the ADR field for being the only person of color in their workplace, in a mediation they are facilitating or even one of few at conferences for conflict resolution professionals. In fact, Volpe, et al., (2007) recognize that even geographic location can be a barrier for racially and ethnically diverse practitioners who live in a region that is predominately white, leading to a predominately white make-up of the field as well. This type of seclusion within the field can cause feelings of social isolation, frustration, and burden when practitioners have few outlets for promoting diversity or connecting with other practitioners from similar backgrounds (Volpe, et. al., 2007, p. 141).

These challenges which are specific to minority groups of ADR practitioners have been covered more thoroughly in previous works by a few authors over the years, yet it is important to emphasize the additional challenges they face. While all new professionals encounter a number of barriers to entering the field it is vital to include the experiences of underrepresented groups and the subtly different ways in which they experience these barriers. These perspectives are imperative to effective reform of systemic processes to ensure the alleviation of these challenges without the alienation of these underrepresented groups.

CHAPTER IV

DISCUSSION

The Four Primary Challenges

Lack of Awareness

The interdisciplinary skill set that ADR practice encompasses brings a wide array of potential practitioners from various backgrounds and different stages of career development. In order to provide a large and diverse pool of prospective professionals properly trained to work with a variety of clients in an infinite number of situations. However, lack of awareness about ADR and these numerous, unique capabilities of ADR professionals is arguably the primary challenge facing upcoming practitioners today. Without a general understanding of ADR and its processes by the public at large, both potential employers and clients are far less likely to utilize the field's new professionals. As new recruits are exiting the institutions which have equipped them with the necessary proficiencies and credentials, they turn to today's most popular form of job hunting: the internet. Among a myriad of listings posted on job search engines looking for experienced candidates all under titles including human resources, project management, customer services, and managers for a wide variety of companies which all require conflict resolution skills but never seek conflict resolution specialists. Many of

these listings provide preferred degrees and state that “related fields” will be accepted as well, but who is to say whether conflict resolution will be considered related? If companies are sorting potential hiring candidates strictly by degree then a recent graduate with a conflict resolution degree could easily be sorted out as not having the required skills or expertise, regardless of what the candidate may actually be capable of contributing.

Unclear Entry Paths

As of today, there is no standard measure for certification or qualification of ADR professionals within the United States. While there are member associations and organizations that claim to provide certification of mediators and other types of ADR practitioners, those certification processes do not require any one specific training or experience to provide accreditation outside basic mediation training. This interpretive accreditation system has both positive and negative consequences on today’s practitioners.

On the one hand, this type of system allows for a wider variety of specialists to come to the ADR field from any number of different fields to practice in specific niches of conflict. Some benefits to more structured, institutionalized type training for example include increased opportunities to network and exposure to multiple. In addition to drawing professionals from other fields is the flexibility and accessibility

provided by the relative ease and affordability of standard basic mediation training. While ease of access to basic training has its own benefits,

However, this ease of access does not always lend credibility to the ADR field's diverse body of practitioners. Without a standard requirement for accreditation and the vast variety of mediation styles offered for training, there is no guarantee that practitioners are in fact qualified to resolve disputes. Furthermore, without institutionalized training new practitioners may not qualify as viable candidates for full-time positions within organizations. Even with institutionalized training from a post-secondary educational facility a degree in ADR may disqualify a new practitioner from candidacy for a position that deals with specific issues such as labor disputes, environmental issues, international negotiations, etc. Without a standardized accreditation system, new practitioners are left to their own devices when it comes to marketing themselves to prospective employers. This can be incredibly difficult when hiring professionals are unfamiliar with ADR and the practical, interdisciplinary skills that ADR practitioners can offer.

Influence from Other Professions

It is well known that ADR has developed from within the legal system, as even the name refers to an alternative to the typical

adversarial structure of the courtroom. Developing from this particular profession, there are many high set bars in terms of expectations for the practice of ADR and the requirements for its use. This is particularly evident upon reviewing the Model Standards of Conduct for Mediators (2005) which was created through collaboration between the American Bar Association (ABA), American Arbitration Association, and the Association for Conflict Resolution. The Model Standards have been incredibly effective in promoting ADR as they provide some substantial measure of a reliable ADR specialist, but being as they originated in part from the ABA there definitely remains influence from the traditional system which ADR has sought to be alternative too. These proverbial shoes to fill continue to affect the field of ADR as it attempts to legitimize and professionalize while still holding space for input from the legal sphere, potential making it difficult ADR to stand out as its own profession for non-attorney mediators to practice.

Aside from law, there are additional professional influences which can impede upon the success of ADR practitioners. Because ADR can be used in such a wide variety of specialties such as environmental policy, public policy, planning, family matters, and international disputes, the regulations and requirement imposed upon practitioners from each of their respected fields can also influence ADR professionals who practice within these specialized niches. When coming from a strictly ADR focused educational background, working in these niches can create a

steep learning curve and additional hoops to jump through in order to be considered a viable candidate for hiring. For example, if a mediator chooses to work within environmental disputes, they may need to be more than casually educated in the matters of watershed processes or dangers of invasive species. Becoming an ADR practitioner does not give license to weigh in on any matter and jurisdictions of these other professions will always be able to dictate additional requirements for neutrals who wish to serve within their borders.

Each of these examples of professional influence can serve as an example of jurisdictional competition as defined by Abbott (1988) and while they may not give a clear picture of where those jurisdictional lines intersect, they definitely provide some idea as to where ADR may be able to fit and where practitioners will need to fight for their own jurisdiction.

Financial Limitations

The last barrier to be addressed here is that of financial limitations and the struggle for new ADR practitioners to gain substantial employment. Primarily this arises from the initial out-of-pocket cost to potential practitioners required to get started both in terms of training and starting up practice. Although there are a number of different ways to get trained in ADR, most of these methods cost money. Whether it is a \$100 registration fee for a mediation training or the upwards of \$40,000

for an advanced degree, the costs for even the first few steps can be daunting. Even after the initial investment there are still additional costs for continuing education credits (often times required by associations for certification), membership fees to stay connected with those parts of the community that are accessible, start-up costs for new businesses, and in the effort for self-promotion between job search, advertising, and the countless hours spent networking.

Now, many of these costs are experienced by new professionals across all fields of professional life. However ADR practitioners are particularly affected because of the lack of knowledge creating fewer opportunities for professional advancement and a more arduous time breaking through the veil and into a respected position. On top of these challenges the emphasis placed on the need for experience to gain employment and expectation of conduction pro-bono and volunteer work to gain that experience leaves new professionals in a tough spot. Seeking employment while working for free on top of the additional costs identified above, leave new professionals and a desperate and disadvantage spot which can often discourage practitioners from pursuing careers dedicated solely to ADR.

Is Standardization the Answer?

The last feature to recognize among the challenges to entering the field is the dilemma surrounding standardization. Now while Abbott (1988) would argue that licensure is a poor attempt for establishing professionalization, consideration for standardization among practitioners is still very prevalent. While there would be some benefits to implementing some sort of standard or licensure process, there would also be some setbacks. While there would be a set code of ethics and standards to which ADR professionals would need adhere and that potential clients could turn to when seeking out a quality professional, these standards and the cost of continued licensure could prevent some potential practitioners from being able to qualify. For example, in a case where a trusted community member has been asked to mediate a dispute between two disputants but has not been licensed due to either financial restraints or lack of experience, that community member would not be able to serve as neutral and could potentially face consequences if s/he were to do so. This type of standardization could truly limit the number and diversity of practitioners which make up the unique body of professionals which form the ADR field today. Again one of the best features of ADR is the limitless potential for its use and the types of professionals it attracts.

Aside from limiting the practitioners available to clients, blanket standardization may not necessarily be the answer to all of the field's barriers. There are many complex features of ADR which create the barriers new professionals face and while standardization may address some of those issues, they may create additional barriers yet unseen. For example, it will be especially tricky to navigate the jurisdictional boundaries when allotting professional power to ADR practitioners across the many subfields of ADR. In addition, standardization will likely not alleviate the financial burdens upon new practitioners and may even induce additional stress without providing counter measures in the face of the pro-bono for experience conundrum.

However, although there remain many questions to be answered in terms of standardization that is not to say that it is not the correct course for the progression of the field. As ADR continues on its path towards professionalization there will need to be much flexibility and consideration to accommodate all the field practitioners without exclusion nor sacrifice of those tenants which make ADR unique.

CHAPTER V

RECOMMENDATIONS

Towards the end of this research I found that I had raised more questions in the process of finding answers and motivated new ideas for possible paths for the ADR field to develop in the future. This chapter will briefly outline these inspirations in the hope that these topics may be further explored in the future and contribute to the professionalization of the field.

Possible Topics for Further Research

Identifying the Professionals and Their Experiences

As the research for this paper progressed, a clear distinction appeared in the identification of new professionals between those students of ADR just discovering the field and those who have completed their training and seek to enter the field as new practitioners. For the purposes of this paper, the challenges identified represent challenges faced by new professionals at various points throughout the entry process, but as previously addressed there exist other barriers which affect various practitioners differently. Those challenges could be

identified more effectively by recognizing the differences between ADR practitioners at the various stages of professional development.

The first method that comes to mind for identifying the challenges at the different stages of professional development would be to do a qualitative study on the experiences of a few new professionals. First, researcher or researchers would need to identify a pool of diverse candidates from a variety of backgrounds enrolled in some of the different methods for accreditation. These candidates should represent the various diversities found in new practitioners in everything from geographical location, methods selected for ADR training (i.e. basic mediation training, graduate level ADR study, or other forms of experiential learning), and at which point candidates began their ADR career path (i.e. post-graduate or accomplished in another professional field). From here researchers could conduct interviews with the selected candidates near the beginning of their training to attain a qualitative perspective on their own process for entering the field and the challenges they encountered on each of their specific career paths. These interviews could then be followed up as the candidates complete their training and begin to seek employment and realize any new barriers they might face at this later stage in the professional development process. This type of study could give a more detailed perspective into the distinctly different challenges potential ADR professionals throughout their career paths

and could perhaps give some insight into the benefits and challenges of different methods for accreditations as well.

Another means for attaining this type of qualitative information which may be easier for collecting this information outside of formal interviews is to encourage ADR practitioners to catalogue their own journeys into the field in a kind of mass-media project. A project like this could be hosted either by an ADR organization as an open call for any and all professionals to participate to get a truly broad view, or by a specific program to host only their own participants to get a narrower view of the challenges presented based on a smaller set of variants. In either case I believe a project like this could provide a great deal of insight into how challenges are affecting new practitioners and illustrate many of the common themes among the different entry paths which lead to the success of ADR professionals.

Professionalization and How to Achieve It

Another key research component missing from this puzzle is a look into how ADR can successfully transition from a skill set to a full-fledged profession. Standardization may have a role to play in this development, but after completing the research for this work, I do not believe standardization alone will be enough to catalyze understanding of the field as a legitimate profession among the public. Additional study into

new professions which have recently surfaced, such as project managers and even ombudsmen within ADR, could prove useful in determining steps which could prove useful for ADR as well. This work is especially important when considering Abbott's (1988) theory of interprofessional competition between realms of jurisdiction and the recognized boundaries of ADR's jurisdiction within the many subsets ADR professionals practice within. The diversity in the realms of which ADR professionals inhabit will make standardization a complex process that will require specific definition of the jurisdiction of ADR practitioners. Whether or not it will encompass the array of niches ADR is composed of will be an important factor when determining standardization and additional study will be needed to define supplementary qualifications for those specialized professionals if standardization is indeed the route chosen to progress.

Finally, any study into methods for professionalization should also include perspectives from the public as to the public's perception of what truly defines a profession. Although we have academic sources which can tell us how professions have developed in the past, the use of ADR and its legitimization will rely heavily on the public knowledge and perception of the field. These perceptions will be vital in the process of professionalization of ADR to specifically combat the lack of public awareness or stigmas surrounding ADR practices and practitioners.

With insight into these perspectives there may be opportunity for insight

into how legitimization may be accomplished without formal standardization and allow for a more informal structure which fosters the flexible and inclusive nature of ADR.

Recommendations for ADR Institutions

On the topic of strategies for promoting the success of ADR professionals, this research has also led to some ideas for strategies which ADR based institutions can use to promote its professionals. Some of the strategies identified here may already be in use by some institutions while others may have yet to be incorporated. These recommendations have been inspired both by taking a critical look at the barriers through the research for this paper and through conversations with peers and colleagues about the struggles of the field and aspirations for its future. With that being said, many of these recommendations require varying degrees of communication and cooperation between organizations. This type of effort is no small endeavor but implementing these strategies will also combat the lack of awareness within and surrounding the field as addressed previously.

For University Programs and ADR Affiliated Organizations

As ADR focused programs continue to appear in universities all across the nation there should be an emphasis within those programs on

promoting the field and its professionals. With the lack of field recognition in the public sphere, university programs must prioritize the promotion of ADR use and the competencies of their professionals. University programs already promote the development of the field by offering degrees specifically focused on ADR methods, contributing to the body of research surrounding ADR and its benefits for society, and providing a forum for professionals to share ideas and theories for the continued improvement of ADR practices. Each of these accomplishments have come in the process of professionalizing ADR and the benefits to joining academia are far reaching, but I believe there are additional roles universities can play to make the transition from untrained professional to successful practitioner easier. And the first of these roles has to be as advertiser.

Universities have a unique position within our society as institutions which provide guidance, critical examination of status quo, and resources for anyone and everyone interested in advancing in their chosen professional career. The public turns to universities and their faculty to give insight and provide society with trained professionals that we can trust. Therefore ADR programs within universities must use the resources within their connected community to draw potential ADR practitioners from a variety of backgrounds. Because universities have such an interconnected system of professions which share jurisdictional borders, ADR programs should use the mutual learning environment to

not only promote ADR within their own department but to those schools and departments which may have a vested interest in the use of ADR or who may run into the jurisdictional boundaries of ADR. In my mind I see this type of promotion occurring as open classes for basic ADR methods introduction for any students from any department who are interested, or at least curious, about ADR; or perhaps as a guest lecturer spot within classes or departments to spread the word of ADR, its uses, and its benefits. Someone once told me we might need a sort of travelling ADR show in which practitioners could “share the gospel” and see who was drawn to the light.

This type of practice may be unconventional for a university setting, but bringing ADR to the students of professions who are likely to encounter many situations where ADR could be most useful (i.e. public policy, environmental studies, law, etc.) may spark interest in potential practitioners who otherwise may not have sought ADR practices out. If these methods were successful in recruiting new students for ADR, I believe we would quickly see the diversity of the field dramatically increase as new professionals would come to these programs with vested interests in specific types of ADR and prior knowledge of the disciplines which they previously studied. These types of perspectives are invaluable when studying ADR as considering the impacts its methods could have on the processes of other professions could not only redefine the status quo in a number of fields but also challenge the ADR

community to innovate strategies most effective for the use of ADR across all of society's processes.

Once ADR programs have promoted the ADR within their institution, they must also use their connections to communicate with outside institutions such as member associations committed to ADR to help students of ADR find placements for experiential learning. As mentioned earlier, experience is one of the key factors professionals need in order to gain employment and without assistance some practitioners may miss opportunities for experience simply due to lack of awareness or resources. Using the resources made available through university channels such as advertising and the power of reputation, ADR programs can foster connections with ADR organizations and employers to promote their students to a wide range of current ADR professionals who may be able to provide learning or employment opportunities.

Internships have traditionally been the most widely used method for introducing students to a professional realm, but with a field such as ADR that has not yet reached a fully legitimized status of profession additional support is required. Namely, the limited resources for connecting with ADR professionals and the lack of consensus regarding branding and titles can prevent new ADR professionals from finding placements with the structure or type of experience they seek. ADR programs are much more visible and can more easily identify which types of organizations will provide what kind of experience and may have

more luck reaching out to potential internship placements through reputation and rapport.

CHAPTER VI

CONCLUSION

Regardless of the work yet to be done, the field of ADR has made incredible strides in establishing itself both as a field of study and area of practice. The definitive flexibility, informality, and diversity of use make ADR a unique field that deserves the time and effort it will take to determine best practice for establishing it as a true profession. That being said, before we begin the battle for legitimization we must not forget the heart and soul of the field, its practitioners. The generations which have put so much hard work into developing the field into what it is today have strived to preserve its access to all those who wish to utilize its tools and live the ADR lifestyle. The generations to come will have the burden of upholding that legacy while determining the future of the field, whether it be formal professionalization or informal skills set. In any case, for now there are still barriers which need to be addressed to ensure the success of today's professionals.

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